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HOUSE BILL 1058

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State of Washington

59th Legislature

2005 Regular Session

By Representatives Dickerson, Hinkle, Moeller, Kenney and Darneille

Read first time 01/12/2005. Referred to Committee on Juvenile Justice & Family Law.

1 AN ACT Relating to mental health treatment for minors; and amending  
2 RCW 71.34.042, 71.34.052, 71.34.054, 71.34.025, 71.34.162, and  
3 71.34.270.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 71.34.042 and 1998 c 296 s 14 are each amended to read  
6 as follows:

7 (1) An evaluation and treatment facility may admit for evaluation,  
8 diagnosis, or treatment any minor under thirteen years of age for whom  
9 application is made by the minor's parent or guardian. The consent of  
10 the minor under the age of thirteen is not required.

11 (2) A minor thirteen years or older may admit himself or herself to  
12 an evaluation and treatment facility for inpatient mental treatment,  
13 without parental consent. The admission shall occur only if the  
14 professional person in charge of the facility concurs with the need for  
15 inpatient treatment.

16 ((+2)) (3) When, in the judgment of the professional person in  
17 charge of an evaluation and treatment facility, there is reason to  
18 believe that a minor is in need of inpatient treatment because of a  
19 mental disorder, and the facility provides the type of evaluation and

1 treatment needed by the minor, and it is not feasible to treat the  
2 minor in any less restrictive setting or the minor's home, the minor  
3 may be admitted to an evaluation and treatment facility.

4 ~~((3))~~ (4) Written renewal of voluntary consent must be obtained  
5 from the applicant no less than once every twelve months. The minor's  
6 need for continued inpatient treatments shall be reviewed and  
7 documented no less than every one hundred eighty days.

8 **Sec. 2.** RCW 71.34.052 and 1998 c 296 s 17 are each amended to read  
9 as follows:

10 (1) A parent may bring, or authorize the bringing of, his or her  
11 minor child, age thirteen or older, to an evaluation and treatment  
12 facility and request that the professional person examine the minor to  
13 determine whether the minor has a mental disorder and is in need of  
14 inpatient treatment.

15 (2) The consent of the minor is not required for admission,  
16 evaluation, and treatment if the parent brings the minor to the  
17 facility.

18 (3) An appropriately trained professional person may evaluate  
19 whether the minor has a mental disorder. The evaluation shall be  
20 completed within twenty-four hours of the time the minor was brought to  
21 the facility, unless the professional person determines that the  
22 condition of the minor necessitates additional time for evaluation. In  
23 no event shall a minor be held longer than seventy-two hours for  
24 evaluation. If, in the judgment of the professional person, it is  
25 determined it is a medical necessity for the minor to receive inpatient  
26 treatment, the minor may be held for treatment. The facility shall  
27 limit treatment to that which the professional person determines is  
28 medically necessary to stabilize the minor's condition until the  
29 evaluation has been completed. Within twenty-four hours of completion  
30 of the evaluation, the professional person shall notify the department  
31 if the child is held for treatment and of the date of admission.

32 (4) No provider is obligated to provide treatment to a minor under  
33 the provisions of this section. No provider may admit a minor to  
34 treatment under this section unless it is medically necessary.

35 (5) No minor receiving inpatient treatment under this section may  
36 be discharged from the facility based solely on his or her request.

1 (6) Prior to the review conducted under RCW 71.34.025, the  
2 professional person shall notify the minor of his or her right to  
3 petition superior court for release from the facility.

4 (7) For the purposes of this section "professional person" does not  
5 include a social worker, unless the social worker is certified under  
6 RCW 18.19.110 and appropriately trained and qualified by education and  
7 experience, as defined by the department, in psychiatric social work.

8 **Sec. 3.** RCW 71.34.054 and 1998 c 296 s 18 are each amended to read  
9 as follows:

10 (1) A parent may bring, or authorize the bringing of, his or her  
11 minor child, age thirteen or older, to a provider of outpatient mental  
12 health treatment and request that an appropriately trained professional  
13 person examine the minor to determine whether the minor has a mental  
14 disorder and is in need of outpatient treatment.

15 (2) The consent of the minor is not required for evaluation if the  
16 parent brings the minor to the provider.

17 (3) The professional person may evaluate whether the minor has a  
18 mental disorder and is in need of outpatient treatment.

19 (4) Any minor admitted to inpatient treatment under RCW 71.34.042  
20 or 71.34.052 shall be discharged immediately from inpatient treatment  
21 upon written request of the parent.

22 **Sec. 4.** RCW 71.34.025 and 1998 c 296 s 9 are each amended to read  
23 as follows:

24 (1) The department shall assure that, for any minor admitted to  
25 inpatient treatment under RCW 71.34.052, a review is conducted by a  
26 physician or other mental health professional who is employed by the  
27 department, or an agency under contract with the department, and who  
28 neither has a financial interest in continued inpatient treatment of  
29 the minor nor is affiliated with the facility providing the treatment.  
30 The physician or other mental health professional shall conduct the  
31 review not less than (~~seven~~) three nor more than (~~fourteen~~) seven  
32 days following the date the minor was brought to the facility under RCW  
33 71.34.052 to determine whether it is a medical necessity to continue  
34 the minor's treatment on an inpatient basis.

35 (2) In making a determination under subsection (1) of this section,  
36 the department shall consider the opinion of the treatment provider,

1 the safety of the minor, and the likelihood the minor's mental health  
2 will deteriorate if released from inpatient treatment. The department  
3 shall consult with the parent in advance of making its determination.

4 (3) If, after any review conducted by the department under this  
5 section, the department determines it is no longer a medical necessity  
6 for a minor to receive inpatient treatment, the department shall  
7 immediately notify the parents and the facility. The facility shall  
8 release the minor to the parents within twenty-four hours of receiving  
9 notice. If the professional person in charge and the parent believe  
10 that it is a medical necessity for the minor to remain in inpatient  
11 treatment, the minor shall be released to the parent on the second  
12 judicial day following the department's determination in order to allow  
13 the parent time to file an at-risk youth petition under chapter 13.32A  
14 RCW. If the department determines it is a medical necessity for the  
15 minor to receive outpatient treatment and the minor declines to obtain  
16 such treatment, such refusal shall be grounds for the parent to file an  
17 at-risk youth petition.

18 (4) If the evaluation conducted under RCW 71.34.052 is done by the  
19 department, the reviews required by subsection (1) of this section  
20 shall be done by contract with an independent agency.

21 (5) The department may, subject to available funds, contract with  
22 other governmental agencies to conduct the reviews under this section.  
23 The department may seek reimbursement from the parents, their  
24 insurance, or medicaid for the expense of any review conducted by an  
25 agency under contract.

26 (6) In addition to the review required under this section, the  
27 department may periodically determine and redetermine the medical  
28 necessity of treatment for purposes of payment with public funds.

29 **Sec. 5.** RCW 71.34.162 and 1998 c 296 s 19 are each amended to read  
30 as follows:

31 Following the review conducted under RCW 71.34.025, a minor child  
32 may petition the superior court for his or her release from the  
33 facility. ~~((The petition may be filed not sooner than five days  
34 following the review.))~~ The court shall release the minor unless it  
35 finds, upon a preponderance of the evidence, that it is a medical  
36 necessity for the minor to remain at the facility.

1       **Sec. 6.** RCW 71.34.270 and 1985 c 354 s 27 are each amended to read  
2 as follows:

3       No public or private agency or governmental entity, nor officer of  
4 a public or private agency, nor the superintendent, or professional  
5 person in charge, his or her professional designee or attending staff  
6 of any such agency, nor any public official performing functions  
7 necessary to the administration of this chapter, nor peace officer  
8 responsible for detaining a person under this chapter, nor any county  
9 designated mental health professional, nor professional person, nor  
10 evaluation and treatment facility, shall be civilly or criminally  
11 liable for performing his or her duties under this chapter with regard  
12 to the decision of whether to admit, release, or detain a person for  
13 evaluation and treatment: PROVIDED, That such duties were performed in  
14 good faith and without gross negligence.

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